

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: August 16, 2006

Division: Airports

Bulk Item: Yes X No

Department: Marathon Airport

Staff Contact: James R. "Reggie" Paros

AGENDA ITEM WORDING: Approval of Agreement with Synagro Southeast, Inc. for the operation and maintenance of the Marathon Airport Terminal Sewage Treatment Plant, effective July 1, 2006

ITEM BACKGROUND: See attached Additional Information Memo

PREVIOUS RELEVANT BOCC ACTION: On October 19, 2005, the Board approved the extension of the agreement with Synagro Southeast, Inc. for the operation and maintenance of the Florida Keys Marathon Airport Terminal Sewage Treatment plant, on a month-to-month basis. On January 15, 2003, the Board approved an Agreement Extension for the operation and maintenance of the Marathon Airport Terminal Sewage Treatment Plant, for a period of three years, effective December 1, 2002, at a cost of \$6,555.78 for the first year and an adjustment annually in accordance with the percentage change in the CPI.

CONTRACT/AGREEMENT CHANGES: This is a new agreement.

STAFF RECOMMENDATIONS: Approval.

TOTAL COST: \$7,137.00 plus costs not to exceed \$9,000 **BUDGETED:** Yes X No
annually for repairs and special tasks, materials and chemicals
of a non-recurring nature

COST TO COUNTY: \$7,137.00 - Marathon Airport **SOURCE OF FUNDS:** Tenant Rents
REVENUE PRODUCING: Yes No N/A **AMOUNT PER MONTH** N/A

APPROVED BY: County Atty. YES OMB/Purchasing YES Risk Management YES

DIVISION DIRECTOR APPROVAL: James R. "Reggie" Paros

DOCUMENTATION: Included X Not Required

DISPOSITION: **AGENDA ITEM #**

HOUSING AND COMMUNITY DEVELOPMENT
FLORIDA KEYS MARATHON AIRPORT
James R. "Reggie" Paros, Director/Manager
9400 Overseas Highway, Suite 200
Marathon, Fl. 33050
Telephone: (305) 289-6002/289-6060
Facsimile: (305) 289-6071

ADDITIONAL INFORMATION MEMO

TO: Monroe County Board of County Commissioners

FROM: James R. "Reggie" Paros, Director
Housing and Community Development
Florida Keys Marathon Airport Manager

SUBJECT: Agenda Item requesting approval of agreement with
Synagro Southeast, Inc.

DATE: July 25, 2006

The attached Agreement is with Synagro Southeast, Inc., for the operation and maintenance of the sewage treatment plant at the Marathon Airport, in the amount of \$7,137.00. The agreement is for one year, with an option to renew the agreement after the first year, and each succeeding year, for two additional one year periods. It also provides for the amount to be adjusted annually in accordance with the percentage change in the Consumer Price Index for all urban consumers.

Two quotes for the service were received: US Water Services Corporation, in the amount of \$541.67 per month, plus sampling costs; and Synagro Southeast, in the amount of \$594.74. Additional clarification regarding services included and/or additional costs were requested from US Water Services Corporation but they have been non-responsive. We are requesting to continue to contract with Synagro Southeast. Their service in the past has been satisfactory, with no cost increase requested since December 1, 2002. In addition, the operation is located in Marathon and they are available for immediate response to the airport terminal. The quote from Synagro Southeast reflects an increase of \$48.44 per month, for the increased cost of doing business.

JRP/sd

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: Synagro Southeast, Inc. Contract # _____
 Effective Date: July 1, 2006
 Expiration Date: June 30, 2007
 Contract Purpose/Description: Agreement for operation and maintenance of the Marathon Airport Terminal Sewage Treatment Plant
 Contract Manager: James R. Paros 6002 Marathon Airport/Stop 15
 (Name) (Ext.) (Department)
 for BOCC meeting on 7/19/06 Agenda Deadline: 7/5/06

CONTRACT COSTS

Total Dollar Value of Contract: \$7,137 and costs Current Year Portion: \$1,784.25
not to exceed \$9,000 annually for repairs, and special tasks
materials and chemicals of a non-recurring nature
 Budgeted? Yes ☒ No ☐ Account Codes: -63501-530340-
 Grant: _____
 County Match: _____

ADDITIONAL COSTS

Estimated Ongoing Costs: \$ _____/yr For: _____
 (Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	<u>8/1/2006</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	<u>8/1/2006</u>
Risk Management	<u>6-19-06</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>M. Slawick</u>	<u>6-19-06</u>
O.M.B./Purchasing	<u>6/22/06</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>T. Poo</u>	<u>6-22-06</u>
County Attorney	<u>6/23/06</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>Notikem W. Pessal</u>	<u>6/24/06</u>
Comments: _____				

AGREEMENT

This Agreement is made and entered into this _____ day of _____, 2006, between the BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, hereinafter referred to as "Board" or "County," and SYNAGRO SOUTHEAST, INC., hereinafter referred to as "Provider" or "Contractor".

WHEREAS, the County desires to obtain the services of the Provider for operation and maintenance of the sewage treatment plant at the Marathon Airport, now, therefore,

IN CONSIDERATION of the mutual promises and covenants contained herein, it is agreed as follows:

1. **AMOUNT OF AGREEMENT.** The Board, in consideration of the Provider substantially and satisfactorily performing the scope of services under paragraph 4, shall pay to the Provider the sum of Seven Thousand One Hundred Thirty-seven Dollars (\$7,137.00) annually, and costs not to exceed \$9,000 annually, for repairs and special tasks materials and chemicals of a non-recurring nature.

2. **TERM.** This Agreement shall be for a period one (1) year, commencing July 1, 2006 and terminating June 30, 2007.

The Board shall have the option to renew this agreement after the first year and each succeeding year, for two additional one year periods. The contract amount agreed to herein might be adjusted annually in accordance with the percentage change in the Consumer Price Index for all urban consumers (CPI-U) for the most recent twelve (12) months available.

3. **PAYMENT.** Payment of the sum provided in paragraph 1 will be paid periodically, but no more frequently than monthly as hereinafter set forth. Reimbursement requests will be submitted to the Board via the Marathon Airport Office. The County shall only reimburse, subject to the funded amounts below, those reimbursable expenses which are reviewed and approved by both the Airport Management and the Finance Office as being in compliance with state statutes. Evidence of payment by the Provider shall be in the form of a letter, summarizing the expenses, with supporting documentation attached. The letter should contain a certification statement as well as a notary stamp and signature. Alternatively, reimbursable expenses may be handled by Provider's suppliers direct-billing the County.

After the Clerk of the Board examines and approves the request for reimbursement, the Board shall reimburse the Provider. However, the total of said reimbursement expense payments in the aggregate sum shall not exceed the total amount of \$9,000.00 per year.

4. **SCOPE OF SERVICES.** The Provider, for the consideration named, covenants and agrees with the Board to substantially and satisfactorily perform the operation and maintenance of the Marathon Airport Terminal Sewage Treatment Plant.

5. **INDEPENDENT CONTRACTOR.** At all and for all purposes hereunder, the Provider is an independent contractor and not an employee of the Board of County Commissioners for Monroe County. No statement contained in this agreement shall be construed so as to find the Provider or any of its employees, contractors, servants or agents to be employees of the Board.

6. INSURANCE. Prior to execution of this agreement, and maintained throughout the life of the contract, the contractor shall furnish to the Owner Certificates of Insurance indicating the minimum coverage limitations as listed below:

- A. **General Liability** – include as a minimum: Premises Operations, Products and Completed Operations, Blanket Contractual Liability, Personal Injury Liability, Expanded Definition of Property Damage.

The minimum limits acceptable shall be \$300,000 Combined Single Limit.

If split limits are provided, the minimum limits acceptable shall be: \$100,000 per person; \$300,000 per Occurrence; and \$50,000 Property Damage.

An Occurrence Form policy is preferred. If coverage is provided on a Claims Made Policy, its provisions should include coverage for claims filed on or after the effective date of this contract. In addition, the period for which claims may be reported should extend for a minimum of twelve months following the acceptance of work by the County.

The Monroe County Board of County Commissioners shall be named as Additional Insured on all policies issued to satisfy the above requirements.

- B. **Vehicle Liability** – include as a minimum: Owned, Non-Owned, and Hired Vehicles

The minimum limits acceptable shall be \$100,000 Combined Single Limit. If split limits are provided, the minimum limits acceptable shall be: \$50,000 per Person; \$100,000 per Occurrence; and \$25,000 Property Damage.

The Monroe County Board of County Commissioners shall be named as Additional Insured on all policies issued to satisfy the above requirements.

- B. **Workers Compensation** – limits sufficient to respond to Florida Statute 440.

In addition, the Contractor shall obtain Employers' Liability Insurance with limits of not less than: \$100,000 Bodily Injury by Accident; \$500,000 Bodily Injury by Disease, policy limits; \$100,000 Bodily Injury by Disease, each employee.

Coverage shall be provided by a company or companies authorized to transact business in the State of Florida and the company or companies must maintain a minimum rating of A-VI, as assigned by the A.M. Best Company.

If the Contractor has been approved by Florida's Department of Labor, as an authorized self-insurer, the County shall recognize and honor the Contractor's status. The Contractor may be required to submit a Letter of Authorization issued by the Department of Labor and Certificate of Insurance, providing details on the Contractor's Excess Insurance Program.

If the Contractor participates in a self-insurance fund, a Certificate of Insurance will be required. In addition, the contractor may be required to submit updated financial statements from the fund upon request from the County.

- C. **Pollution Liability** – The minimum limits of liability shall be: \$500,000 per Occurrence/\$1,000,000 Aggregate

If coverage is provided on a claims made basis, an extended claims reporting period of four (4) years will be required.

7. GOVERNING LAWS. Governing Law, Venue, Interpretation, Costs, and Fees: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed entirely in the State.

In the event that any cause of action or administrative proceeding is instituted for the enforcement or interpretation of this Agreement, the County and Contractor agree that venue will lie in the appropriate court or before the appropriate administrative body in Monroe County, Florida.

The County and Contractor agree that, in the event of conflicting interpretations of the terms or a term of this Agreement by or between any of them the issue shall be submitted to mediation prior to the institution of any other administrative or legal proceeding.

8. SEVERABILITY. If any term, covenant, condition or provision of this Agreement (or the application thereof to any circumstance or person) shall be declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining terms, covenants, conditions and provisions of this Agreement, shall not be affected thereby; and each remaining term, covenant, condition and provision of this Agreement shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms, covenants, conditions and provisions of this Agreement would prevent the accomplishment of the original intent of this Agreement. The County and Contractor agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

9. ATTORNEY'S FEES AND COSTS. The County and Contractor agree that in the event any cause of action or administrative proceeding is initiated or defended by any party relative to the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, court costs, investigative, and out-of-pocket expenses, as an award against the non-prevailing party, and shall include attorney's fees, courts costs, investigative, and out-of-pocket expenses in appellate proceedings. Mediation proceedings initiated and conducted pursuant to this Agreement shall be in accordance with the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit court of Monroe County.

10. BINDING EFFECT. The terms, covenants, conditions, and provisions of this Agreement shall bind and inure to the benefit of the County and Contractor and their respective legal representatives, successors, and assigns.

11. AUTHORITY. Each party represents and warrants to the other that the execution, delivery and performance of this Agreement have been duly authorized by all necessary County and corporate action, as required by law.

12. CLAIMS FOR FEDERAL OR STATE AID. Contractor and County agree that each shall be, and is, empowered to apply for, seek, and obtain federal and state funds to further the purpose of this Agreement; provided that all applications, requests, grant proposals, and funding solicitations shall be approved by each party prior to submission.

13. ADJUDICATION OF DISPUTES OR DISAGREEMENTS. County and Contractor agree that all disputes and disagreements shall be attempted to be resolved by meet and confer sessions between representatives of each of the parties. If no resolution can be agreed upon within 30 days after the first meet and confer session, the issue or issues shall be discussed at a public meeting of the Board of County Commissioners. If the issue or issues are still not resolved to the satisfaction of the parties, then any party shall have the right to seek such relief or remedy as may be provided by this Agreement or by Florida law.

14. COOPERATION. In the event any administrative or legal proceeding is instituted against either party relating to the formation, execution, performance, or breach of this Agreement, County and Contractor agree to participate, to the extent required by the other party, in all proceedings, hearings,

processes, meetings, and other activities related to the substance of this Agreement or provision of the services under this Agreement. County and Contractor specifically agree that no party to this Agreement shall be required to enter into any arbitration proceedings related to this Agreement.

15. NONDISCRIMINATION. County and Contractor agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. County or Contractor agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC ss. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101- 6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC s. et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 1201 Note), as maybe amended from time to time, relating to nondiscrimination on the basis of disability; 10) Sections 13-101, et seq., Monroe County Code, relating to discrimination based on race, color, sex, religion, disability, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age; 11) Any other nondiscrimination provisions in any Federal or state statutes which may apply to the parties to, or the subject matter of, this Agreement.

16. COVENANT OF NO INTEREST. County and Contractor covenant that neither presently has any interest, and shall not acquire any interest, which would conflict in any manner or degree with its performance under this Agreement, and that only interest of each is to perform and receive benefits as recited in this Agreement.

17. CODE OF ETHICS. County agrees that officers and employees of the County recognize and will be required to comply with the standards of conduct for public officers and employees as delineated in Section 112.313, Florida Statutes, regarding, but not limited to, solicitation or acceptance of gifts; doing business with one's agency; unauthorized compensation; misuse of public position, conflicting employment or contractual relationship; and disclosure or use of certain information.

18. NO SOLICITATION/PAYMENT. The County and Contractor warrant that, in respect to itself, it has neither employed nor retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of the provision, the Contractor agrees that the County shall have the right to terminate this Agreement without liability and, at its discretion, to offset from monies owed, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

19. PUBLIC ACCESS. The County and Contractor shall allow and permit reasonable access to, and inspection of, all documents, papers, letters or other materials in its possession or under its control subject to the provisions of Chapter 119, Florida Statutes, and made or received by the County and Contractor in conjunction with this Agreement; and the County shall have the right to unilaterally cancel this Agreement upon violation of this provision by Contractor.

20. NON-WAIVER OF IMMUNITY. Notwithstanding the provisions of Sec. 286.28, Florida Statutes, the participation of the County and the Contractor in this Agreement and the acquisition of any commercial liability insurance coverage, self-insurance coverage, or local government liability insurance pool coverage shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered into by the County be required to contain any provision for waiver.

21. PRIVILEGES AND IMMUNITIES. All of the privileges and immunities from liability, exemptions from laws, ordinances, and rules and pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents, or employees of any public agents or employees of the County, when performing their respective functions under this Agreement within the territorial limits of the County shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, volunteers, or employees outside the territorial limits of the County.

22. LEGAL OBLIGATIONS AND RESPONSIBILITIES: Non-Delegation of Constitutional or Statutory Duties. This Agreement is not intended to, nor shall it be construed as, relieving any participating entity from any obligation or responsibility imposed upon the entity by law except to the extent of actual and timely performance thereof by any participating entity, in which case the performance may be offered in satisfaction of the obligation or responsibility. Further, this Agreement is not intended to, nor shall it be construed as, authorizing the delegation of the constitutional or statutory duties of the County, except to the extent permitted by the Florida constitution, state statute, and case law.

23. NON-RELIANCE BY NON-PARTIES No person or entity shall be entitled to rely upon the terms, or any of them, of this Agreement to enforce or attempt to enforce any third-party claim or entitlement to or benefit of any service or program contemplated hereunder, and the County and the Contractor agree that neither the County nor the Contractor or any agent, officer, or employee of either shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this Agreement separate and apart, inferior to, or superior to the community in general or for the purposes contemplated in this Agreement.

24. ATTESTATIONS. Contractor agrees to execute such documents as the County may reasonably require, to include a Public Entity Crime Statement, an Ethics Statement, and a Drug-Free Workplace Statement.

25. NO PERSONAL LIABILITY. No covenant or agreement contained herein shall be deemed to be a covenant or agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

26. EXECUTION IN COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together

shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

27. SECTION HEADINGS. Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provision of this Agreement.

28. INDEMNIFY/HOLD HARMLESS. Contractor agrees to indemnify and save County harmless from and against all claims and actions and expenses incidental thereto, arising out of damages or claims for damages resulting from the negligence of Contractor, its agents, or employees while Contractor is performing the operation and maintenance of the Marathon Airport Terminal Sewage Treatment Plant. However, Contractor shall not be liable for any claims, actions or expenses which arise from the negligent or intentional acts or omissions of the County, its agents or employees. The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement.

29. ASSURANCE AGAINST DISCRIMINATION. The Contractor shall not discriminate against any person on the basis of race, creed, color, national origin, sex, age, or any other characteristic or aspect which is not job related, in its recruiting, hiring, promoting, terminating, or any other area affecting employment under this agreement or with the provision of services or goods under this agreement.

30. ASSIGNMENT/SUBCONTRACT. The Contractor shall not assign or subcontract its obligations under this agreement, except in writing and with the prior written approval of the Board of County Commissioners for Monroe County, which approval shall be subject to such conditions and provisions as the Board may deem necessary. This paragraph shall be incorporated by reference into any assignment or subcontract and any assignee or subcontractor shall comply with all of the provisions of this agreement. Unless expressly provided for therein, such approval shall in no manner or event be deemed to impose any obligation upon the board in addition to the total agreed-upon price of the services/goods of the contractor.

31. FUNDING AVAILABILITY. In the event that funds from the Marathon Airport Contractual Services are partially reduced or cannot be obtained or cannot be continued at level sufficient to allow for the purchase of the services/goods specified herein, this agreement may then be terminated immediately at the option of the Board of County Commissioners by written notice of termination delivered in person or by mail to the contractor. The Board shall not be obligated to pay for any services provided by the contractor after the contractor has received written notice of termination.

32. PROFESSIONAL RESPONSIBILITY. The Contractor warrants that it is authorized by law to engage in the performance of the activities encompassed by the project herein described, subject to the terms and conditions set forth in these contract documents. The provider shall at all times exercise independent, professional judgment and shall assume professional responsibility for the services to be provided. Continued funding by the Owner is contingent upon retention of appropriate local, state, and/or federal certification and/or licensure of contractor.

33. COMPLIANCE WITH LAW. In providing all services/goods pursuant to this agreement, the contractor shall abide by all statutes, ordinances, rules and regulation pertaining to, or regulating the provisions of, such services, including those now in effect and hereinafter adopted. Any violation of said statutes, ordinances, rules and regulations shall constitute a material breach of this agreement and shall entitle the Board to terminate this contract immediately upon delivery of written notice of termination to the contractor. The contractor shall possess

proper licenses to perform work in accordance with these specifications throughout the term of this contract.

34. RECORDS. Contractor shall maintain all books, records, and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. Each party to this Agreement or their authorized representatives shall have reasonable and timely access to such records of each other party to this Agreement for public records purposes during the term of the Agreement and for four years following the termination of this Agreement. If an auditor employed by the County or Clerk determines that monies paid to Contractor pursuant to this Agreement were spent for purposes not authorized by this Agreement, the Contractor shall repay the monies together with interest calculated pursuant to Sec. 55.03, FS, running from the date the monies were paid to Contractor.

35. MODIFICATIONS AND AMENDMENTS. Any and all modifications of the services and/or reimbursement of services shall be amended by an agreement amendment, which must be approved in writing by the Board.

36. AUTHORIZED SIGNATURES. The signatory for the Provider below, certifies and warrants that:

(a) The Provider's name in this agreement is the full name as designated in its corporate charter, if a corporation, or the full name under which the Provider is authorized to do business in the State of Florida.

(b) He or she is empowered to act and contract for the Provider; and

(c) This agreement has been approved by the Board of Directors of the Provider if the Provider is a corporation.

37. NOTICE. Any notice required or permitted under this agreement shall be in writing and hand-delivered or mailed, postage pre-paid, by certified mail, return receipt requested, to the other party as follows:

For Board:

Marathon Airport Manager
9400 Overseas Highway
Marathon, FL 33050

For Provider:

Synagro Southeast, Inc.
5198 Overseas Highway
Marathon, FL 33050

38. ENTIRE AGREEMENT. This agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes any and all prior agreements with respect to such subject matter between the Provider and the Board.

39. CANCELLATION. In the event that the Contractor shall be found negligent in any aspect of plant operation, maintenance, repair or service, the County shall have the right to terminate this agreement after five days written notification to the Provider.

Either of the parties hereto may cancel this agreement without cause by giving the other party sixty (60) days written notice of its intention to do so.

40. CONTINGENCY STATEMENT. Monroe County's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Monroe County Board of County Commissioners.

41. **PUBLIC ENTITY CRIME STATEMENT.** A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids n leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Sec. 287.017, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list. If the Contractor is on the convicted vendor list, then this Contract is void ab initio with the County under no obligation to pay the Contractor any compensation or damages under any legal theory whatsoever.

42. **ETHICS CLAUSE.** The Provider warrants that he/it has not employed, retained or otherwise had act on his/its behalf any former County officer or employee subject to the prohibition of Section 2 of Ordinance No. 010-1990 or any County officer or employee in violation of Section 3 of Ordinance No. 010-1990. For breach or violation of this provision the County may, in its discretion, terminate this contract without liability and may also, in its discretion, deduct from the contract or purchase price, or otherwise recover, the full amount of any fee, commission, percentage, gift, or consideration paid to the former County officer or employee.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed as of the day and year first written above.

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Mayor/Chairman

Attest:

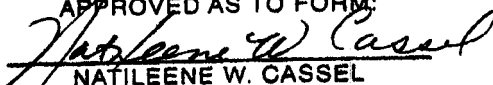
SYNAGRO SOUTHEAST, INC.

By _____

By 

Title _____

Title SR. Oponnan Mmaka

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

NATILEENE W. CASSEL
ASSISTANT COUNTY ATTORNEY
Date 6/26/06